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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2723

13 ROBERT CHARLES GARLICK

OAH No. N2004070295

14 7514 Fesler Court

15 Citrus Heights, CA 95610

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Pharmacist License No. RPH 40358

17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
22 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
23 by Bill Lockyer, Attorney General of the State of California, by Kent D. Harris, Deputy Attorney
24 General.

25 2. Respondent Robert Charles Garlick (Respondent) is represented in this
26 proceeding by attorney Gregory P. Matzen, whose address is Lewis, Brisbois Bisgaard & Smith
27 LLP, 2500 Venture Oaks Way, Suite 200, Sacramento, CA 95833.

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1 3. On or about August 25, 1986, the Board of Pharmacy issued Pharmacist
2 License No. RPH 40358 to Robert Charles Garlick (Respondent). The License was in full force
3 and effect at all times relevant to the charges brought in Accusation No. 2723.

4 JURISDICTION

5 4. Accusation No. 2723 was filed before the Board of Pharmacy (Board),
6 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
7 and all other statutorily required documents were properly served on Respondent on June 14,
8 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
9 Accusation No. 2723 is attached as exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in Accusation No. 2723. Respondent has also carefully
13 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
18 the right to present evidence and to testify on his own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of the charges and allegations contained in
26 paragraphs 13 through 15 in Accusation No. 2723, with the exception and modification that the
27 drug "Xanax" as it appears in each of the three paragraphs be stricken and the word
28 "Benzodiazepine" substituted . Further, each of the dates specified as "May of 2003" in the three

referenced paragraphs shall be replaced with "1998". Finally, the fourth cause of action contained in paragraph 16 shall be stricken in its entirety.

9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 40358 issued to Respondent Robert Charles Garlick is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

2. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report **is not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

3. **Interview with the Board.** Upon receipt of reasonable notice, Respondent shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

4. **Cooperation with Board Staff.** Respondent shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of his probation. Failure to comply shall be considered a violation of probation.

5. **Continuing Education.** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

1 6. **Notice to Employers.** Respondent shall notify all present and
2 prospective employers of the decision in case number 2723 and the terms, conditions and
3 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
4 this decision, and within 15 days of Respondent undertaking new employment, Respondent
5 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
6 writing acknowledging the employer has read the decision in case number 2723.

7 If Respondent works for or is employed by or through a pharmacy employment
8 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
9 every pharmacy of the and terms conditions of the decision in case number 2723 in advance of
10 the Respondent commencing work at each pharmacy.

11 "Employment" within the meaning of this provision shall include any full-time, part-
12 time, temporary, relief or pharmacy management service as a pharmacist, whether the
13 Respondent is considered an employee or independent contractor.

14 7. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
15 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
16 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
17 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
18 order.

19 8. **Reimbursement of Board Costs.** Respondent shall pay to the Board
20 its costs of investigation and prosecution in the amount of \$2,500. Respondent may make
21 payments as approved by the board.

22 The filing of bankruptcy by Respondent shall not relieve Respondent of his
23 responsibility to reimburse the Board its costs of investigation and prosecution.

24 9. **Probation Monitoring Costs.** Respondent shall pay the costs
25 associated with probation monitoring as determined by the Board each and every year of
26 probation. Such costs shall be payable to the Board at the end of each year of probation.
27 Failure to pay such costs shall be considered a violation of probation.

1 10. **Status of License.** Respondent shall, at all times while on probation,
2 maintain an active current license with the Board, including any period during which
3 suspension or probation is tolled.

4 If Respondent's license expires or is cancelled by operation of law or otherwise,
5 upon renewal or reapplication, Respondent's license shall be subject to all terms and
6 conditions of this probation not previously satisfied.

7 11. **License Surrender while on Probation/Suspension.** Following the
8 effective
9 date of this decision, should Respondent cease practice due to retirement or health, or be
10 otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his
11 license to the Board for surrender. The Board shall have the discretion whether to grant the
12 request for surrender or take any other action it deems appropriate and reasonable. Upon
13 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
14 terms and conditions of probation.

15 Upon acceptance of the surrender, Respondent shall relinquish his pocket
16 license to the Board within 10 days of notification by the Board that the surrender is accepted.
17 Respondent may not reapply for any license from the Board for three years from the effective
18 date of the surrender. Respondent shall meet all requirements applicable to the license sought
19 as of the date the application for that license is submitted to the Board.

20 12. **Notification of Employment/Mailing Address Change.** Respondent
21 shall notify the Board in writing within 10 days of any change of employment. Said
22 notification shall include the reasons for leaving and/or the address of the new employer,
23 supervisor or owner and work schedule if known. Respondent shall notify the Board in
24 writing within 10 days of a change in name, mailing address or phone number.

25 13. **Tolling of Probation.** Should Respondent, regardless of residency, for
26 any reason cease practicing pharmacy in California, Respondent must notify the Board in
27 writing within 10 days of cessation of the practice of pharmacy or the resumption of the
28 practice of pharmacy. Such periods of time shall not apply to the reduction of the probation

1 period. It is a violation of probation for Respondent's probation to remain tolled pursuant to
2 the provisions of this condition for a period exceeding three years.

3 "Cessation of practice" means any period of time exceeding 30 days in which Respondent is
4 not engaged in the practice of pharmacy as defined in Section 4052 of the Business and
5 Professions Code.

6 **14. Violation of Probation.** If Respondent violates probation in any
7 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
8 probation and carry out the disciplinary order which was stayed. If a petition to revoke
9 probation or an accusation is filed against Respondent during probation, the Board shall have
10 continuing jurisdiction and the period of probation shall be extended, until the petition to
11 revoke probation or accusation is heard and decided.

12 If Respondent has not complied with any term or condition of probation, the
13 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
14 be extended until all terms and conditions have been satisfied or the Board has taken other
15 action as deemed appropriate to treat the failure to comply as a violation of probation, to
16 terminate probation, and to impose the penalty which was stayed.

17 **15. Completion of Probation.** Upon successful completion of probation,
18 Respondent's license will be fully restored.

19 **16. Rehabilitation Program - Pharmacists Recovery Program (PRP).**
20 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
21 Recovery Program for evaluation and shall successfully participate in and complete the
22 treatment contract and any subsequent addendums as recommended and provided by the PRP
23 and as approved by the Board. The costs for PRP participation shall be borne by the
24 Respondent.

25 If Respondent is currently enrolled in the PRP, said participation is now
26 mandatory and is no longer considered a self-referral under Business and Professions Code
27 section 4363, as of the effective date of this decision. Respondent shall successfully
28 participate in and complete his current contract and any subsequent addendums with the PRP.

1 Probation shall be automatically extended until Respondent successfully completes his
2 treatment contract. Any person terminated from the program shall be automatically suspended
3 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
4 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
5 probation for any violation of this term.

6 17. **Petition for Early Termination of Probation.** After two years of
7 probation if respondent has successfully completed participation in the PRP, he may petition
8 the Board for early termination of probation as allowed by law.

9 18. **Random Drug Screening.** Respondent, at his own expense, shall
10 participate in random testing, including but not limited to biological fluid testing (urine,
11 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
12 The length of time shall be for the entire probation period and the frequency of testing will be
13 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
14 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
15 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
16 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
17 in the immediate suspension of practice by Respondent. Respondent may not resume the
18 practice of pharmacy until notified by the Board in writing.

19 19. **Abstain from Drugs and Alcohol Use.** Respondent shall completely
20 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
21 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
22 practitioner as part of a documented medical treatment. Upon request of the Board,
23 Respondent shall provide documentation from the licensed practitioner that the prescription
24 was legitimately issued and is a necessary part of the treatment of the Respondent.

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1 20. **Supervised Practice.** Respondent shall practice only under the
2 supervision of a pharmacist not on probation with the Board. Respondent shall not practice
3 until the supervisor is approved by the Board. The supervision shall be, as required by the
4 Board, either:

5 Continuous - 75% to 100% of a work week

6 Substantial - At least 50% of a work week

7 Partial - At least 25% of a work week

8 Daily Review - Supervisor's review of probationer's daily activities within 24
9 hours

10 Within 30 days of the effective date of this decision, Respondent shall have his supervisor
11 submit notification to the Board in writing stating the supervisor has read the decision in case
12 number 2723 and is familiar with the level of supervision as determined by the Board.

13 If Respondent changes employment, Respondent shall have his new supervisor,
14 within 15 days after employment commences, submit notification to the Board in writing
15 stating the direct supervisor and pharmacist-in-charge have read the decision in case number
16 2723 and is familiar with the level of supervision as determined by the Board.

17 Within 10, days of leaving employment, Respondent shall notify the Board in
18 writing.

19 21. **No Ownership of Premises.** Respondent shall not own, have any legal
20 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
21 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
22 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
23 entity licensed by the Board within 90 days following the effective date of this decision and
24 shall immediately thereafter provide written proof thereof to the Board.

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T-055 P.13/16 F-005

10-28-04 05:07pm From-LEWIS BRISBOIS BISGAARD & SMITH

011

DEPARTMENT OF JUSTICE

07/19/2004 10:36 FAX 3278843

ACCEPTANCE

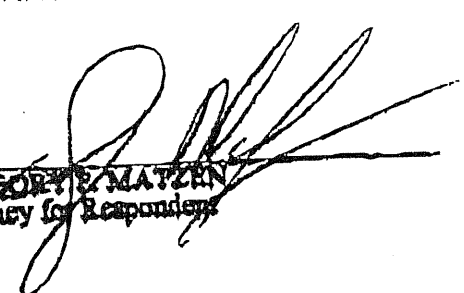
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory P. Matzen. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 11/1/04


ROBERT CHARLES GARLICK
 Respondent

I have read and fully discussed with Respondent Robert Charles Garlick the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/29/04


GREGORY P. MATZEN
 Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby
respectfully submitted for consideration by the Board of Pharmacy of the Department of
Consumer Affairs.

DATED: 11/9/04.

BILL LOCKYER, Attorney General
of the State of California


KENT D. HARRIS
Deputy Attorney General

Attorneys for Complainant

DOJ Docket/Matter ID Number: 03583110-SA2003104916
Robert Garlick stipulation.wpd

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROBERT CHARLES GARLICK
7514 Fesler Court
Citrus Heights, CA 95610

Pharmacist License No. RPH 40358

Respondent.

Case No. 2723

OAH No. N2004070295

DECISION AND ORDER

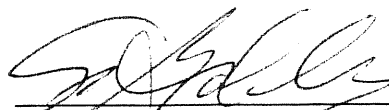
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 17, 2005.

It is so ORDERED December 17, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2723

1 BILL LOCKYER, Attorney General
of the State of California
2 KENT D. HARRIS, State Bar No. 1448040 AMH: 31
Deputy Attorney General
3 California Department of Justice
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5 Telephone: (916) 324-7859
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6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2725

13 ROBERT CHARLES GARLICK
7514 Fesler Court
Citrus Heights, CA 95610

A C C U S A T I O N

14 Pharmacist License No. RPH 40358

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
20 Affairs.

21 2. On or about August 25, 1986, the Board of Pharmacy issued Pharmacist
22 License Number RPH 40358 to Robert Charles Garlick (Respondent). The Pharmacist License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 April 30, 2004, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 4301 of the Code states in pertinent part:

2 "The board shall take action against any holder of a license who is guilty of
3 unprofessional conduct.... Unprofessional conduct shall include, but is not limited to, any of the
4 following:

5 ...

6 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
7 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
8 otherwise, and whether the act is a felony or misdemeanor or not.

9 ...

10 "(h) The administering to oneself, of any controlled substance, or the use of any
11 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
12 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
13 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
14 the public the practice authorized by the license.

15 ...

16 "(j) The violation of any of the statutes of this state or of the United States
17 regulating controlled substances and dangerous drugs.

18 ...

19 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
20 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
21 applicable federal and state laws and regulations governing pharmacy, including regulations
22 established by the board.

23 5. Section 4060 of the Code states in pertinent part:

24 "No person shall possess any controlled substance, except that furnished to a
25 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished
26 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
27 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. ..."

28

6. Section 4022 of the Code states in pertinent part:

"Dangerous drug" ... means any drug ... unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

"(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

... "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."

7. Section 4327 states :

"Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

8. Health & Safety Code section 11350(a) prohibits the unlawful possession of controlled substances.

9. Health & Safety Code section 11170 states that "No person shall prescribe, administer, or furnish a controlled substance for himself."

10. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

11. "Lortab" is the brand name for the generic drug Hydrocodone/Acetaminophen which is a dangerous drug and a schedule III controlled substance under Health and Safety Code section 11056.

12. "Xanax" is the brand name for the generic drug Alprazolam which is a dangerous drug and a schedule IV controlled substance under Health & Safety Code section 11057(d)(1).

1 FIRST CAUSE FOR DISCIPLINE

2 (Corrupt acts--Stealing Controlled Substances)

3 13. Respondent is subject to disciplinary action under section 4301(f)
4 in that by his own admission, on multiple occasions between sometime prior to 1998 and May
5 2003, the specific dates of which are unknown, respondent dishonestly or fraudulently
6 appropriated Lortab and Xanax, from Sutter Hospital and or other pharmacies.

7 SECOND CAUSE FOR DISCIPLINE

8 (Unlawful Possession of Controlled Substances)

9 14. Respondent is subject to disciplinary action under section 4301(j), 4060,
10 and Health & Safety Code section 11350(a) in that, by his own admission, he violated the
11 statutes of this state regulating controlled substances by possessing Lortab and Xanax from
12 sometime before 1998 to May of 2003, the exact dates of which are unknown, without a valid
13 prescription.

14 THIRD CAUSE FOR DISCIPLINE

15 (Unlawful Self-Administration of a Controlled Substance)

16 15. Respondent is subject to disciplinary action under section 4301(h), and
17 Health & Safety Code section 11070 in that, by his own admission, he administered to himself
18 Lortab and Xanax from sometime before 1998 to May of 2003, the exact dates of which are
19 unknown, without a valid prescription.

20 FOURTH CAUSE FOR DISCIPLINE

21 (Working as a Pharmacist While Under The Influence)

22 16. Respondent is subject to disciplinary action under section 4301(o), 4022,
23 and 4327 in that, by his own admission, from sometime before 1998 to May of 2003, the exact
24 dates of which are unknown, while on duty as a pharmacist at Sutter Hospital, he dispensed or
25 compounded drugs while under the influence of controlled substances.

PRAYER

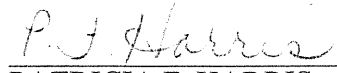
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

A. Revoking or suspending Pharmacist License Number RPH 40358, issued to Robert Charles Garlick;

B. Ordering Robert Charles Garlick to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as deemed necessary and proper.

DATED: 6/8/04



PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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Garlick accusation.wpd
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